

REMARKS/ARGUMENTS

The above-identified application has been reviewed in light of the Final Office Action dated August 28, 2007. Claims 15-20 and 31-33 are currently pending, claims 1-14 and 21-26 having been previously cancelled. By the present Amendment, Applicant has cancelled claims 27-30, amended claim 15, and added new claims 31-33 for consideration. Applicant respectfully submits that these amendments and new claims add no new matter, are fully supported by the specification, and are allowable over the references of record. In light of the amendments made herein and the following remarks, Applicant earnestly solicits reconsideration and allowance of the present application.

In the Final Office Action, claims 27 and 28 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. As indicated above, claims 27 and 28 have been cancelled by the present Amendment. Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 27 and 28.

Claims 15-20 and 27-30 were rejected under 35 U.S.C. § 102(b) as anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as obvious over, U.S. Patent No. 3,417,745 to Sheldon (hereinafter "Sheldon").

Sheldon relates to an endoscopic instrument including a cannula or housing 23 defining a passage, a shaft or channel 56, and an inflatable member 50. As can be appreciated through reference to FIGS. 3 and 4 below, the inflatable member 50 of Sheldon is disposed about, and external in relation to, the cannula or housing 23 both prior and subsequent to inflation. At no time is the inflatable member 50 "at least partially disposed within the passage" as recited in

amended independent claim 15. (Emphasis added).

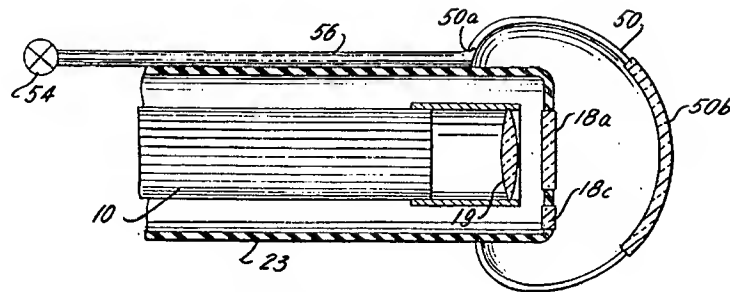


FIG. 3

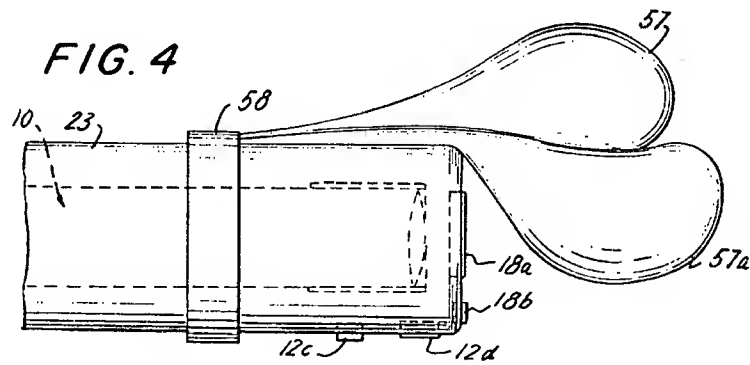


FIG. 4

In addition, Sheldon expressly discloses that inflatable member 50 is provided to displace turbid spinal fluid upon inflation and thereby produce a clear field of vision. (See col. 8, lines 50-54). Were the inflatable member 50 of Sheldon to be at least partially disposed within the cannula or housing 23 prior to inflation, the clinician's view of the target site through window 18a would be obscured, particularly during insertion of the instrument, thereby frustrating the purpose of Sheldon's device.

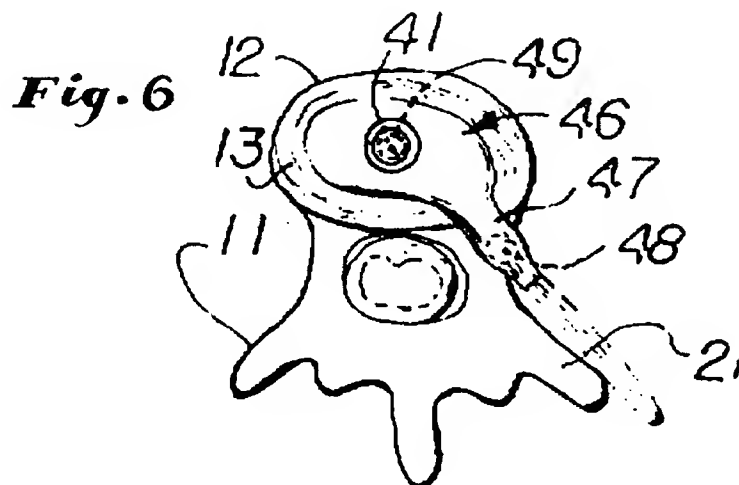
In the Final Office Action, it was asserted that the inflatable member 50 of Sheldon is inherently capable of separating adjacent layers of tissue upon the axial movement thereof, as recited in claim 15. However, Sheldon's inflatable bladder 50 does not have a "conical shape" upon inflation as recited in amended independent claim 15.

For at least these reasons, Applicant respectfully submits that Sheldon fails to disclose or

suggest the apparatus recited in amended independent claim 15, and therefore, that claim 15 is allowable as amended. As claims 16-20 depend either directly or indirectly from claim 15, for at least the reasons set forth above with respect to claim 15, Applicant respectfully submits that claims 16-20 are also allowable. As previously indicated, claims 27-30 have been cancelled herein. Accordingly, withdrawal of the rejection of claims 27-30 is respectfully requested.

Claims 15-20 and 27-30 were rejected under 35 U.S.C. § 102(b) as anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 3,875,595 to Froning.

Froning relates to an instrument including a tube or cannula 31 through which a stem 47 is inserted to replace the nucleus of a vertebral disc with an inflatable prosthetic member 46. (See column 2, lines 25-26). In the Final Office Action, the stem 47 and the prosthetic member 46 were respectively characterized as the “shaft” and the “inflatable bladder” recited in amended independent claim 15, and it was asserted that the “inflatable bladder” 46 is inherently capable of separating adjacent layers of tissue. As seen below in FIG. 6, the “inflatable bladder” 46 of Froning does not have a “conical shape” as recited in amended independent claim 15.



For at least this reason, Applicant respectfully submits that Froning fails to disclose or suggest the apparatus recited in amended independent claim 15, and therefore, that claim 15 is allowable as amended. As claims 16-20 depend either directly or indirectly from claim 15, for at least the reasons set forth above with respect to claim 15, Applicant respectfully submits that claims 16-20 are also allowable. As previously indicated, claims 27-30 have been cancelled herein. Accordingly, withdrawal of the rejection of claims 27-30 is respectfully requested.

By the present amendment, the Applicant has added new claims 31-33. As claims 31 and 32 each depend directly from allowable independent claim 15, Applicant respectfully submits that new claims 31 and 32 are also allowable. New independent claim 33 recites an apparatus comprising a shaft defining a lumen therethrough, a bladder disposed at the distal end of the shaft having a “conical configuration” upon inflation that defines a recessed distal portion, and a cannula having a passage therethrough that is configured to receive the shaft and the bladder such that the bladder is axially movable with respect to the cannula. (Emphasis added). As discussed above, none of the references of record disclose or suggest an inflatable bladder that exhibits a “conical configuration” upon inflation. For at least this reason, Applicant respectfully submits that none of the references of record disclose or suggest the apparatus recited in claim 33, and therefore, that claim 33 is allowable.

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims pending in the application, namely claims 15-20 and 31-33, are in condition for allowance.

Should the Examiner believe that an interview may facilitate the resolution of any outstanding issues, the Examiner is respectfully requested to telephone Applicant's attorney. Early and favorable action on the merits is earnestly solicited.

Respectfully submitted,



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